

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Sylvia Davidovicz	Team: Squad #12	CCRB Case #: 202004183	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input checked="" type="checkbox"/> Injury
Incident Date(s) Thursday, 06/04/2020 5:30 PM, Thursday, 06/04/2020 8:15 PM, NA, 06/04/____ 10:30 AM	Location of Incident: Brook Avenue and 136th Street in the Bronx; Bergen Avenue and 148th Street in the Bronx; 125 Queens B	Precinct: 40	18 Mo. SOL 12/4/2021	EO SOL 5/4/2022	
Date/Time CV Reported Wed, 06/10/2020 7:53 PM	CV Reported At: CCRB	How CV Reported: On-line website	Date/Time Received at CCRB Wed, 06/10/2020 7:53 PM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. Officers			
2. An officer			
3. POM Hugo Batista	02386	952449	SRG 2
4. POM Nicholas Rios	06583	955377	PSA 7
5. POM Matthew Miret	07813	961955	PSA 7
6. CPT JULIO DELGADO	00000	918927	SRG 2

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Umid Karimov	24026	964081	078 PCT
2. SGT Iran Lopezmaceda	01652	928666	SRG 2

Officer(s)	Allegation	Investigator Recommendation
A. Officers	Abuse: At the intersection of East 148th Street and Bergen Avenue in the Bronx, officers took photographs of § 87(2)(b) and individuals.	
B. POM Nicholas Rios	Force: At the intersection of East 136th Street and Brook Avenue in the Bronx, Police Officer Nicholas Rios struck individuals with a baton.	
C. An officer	Force: At the intersection of East 136th Street and Brook Avenue in the Bronx, an officer struck § 87(2)(b) with a baton.	
D. POM Nicholas Rios	Abuse: At the intersection of East 136th Street and Brook Avenue in the Bronx, Police Officer Nicholas Rios refused to provide his shield number to § 87(2)(b)	
E. Officers	Abuse: At the intersection of East 136th Street and Brook Avenue in the Bronx, officers refused to provide their shield numbers to § 87(2)(b)	
F. POM Matthew Miret	Discourtesy: At the intersection of East 136th Street and Brook Avenue in the Bronx, Police Officer Matthew Miret spoke discourteously to § 87(2)(b)	

Officer(s)	Allegation	Investigator Recommendation
G.POM Hugo Batista	Abuse: At Queens Central Booking, Police Officer Hugo Batista questioned § 87(2)(b)	
§ 87(4-b), § 87(2)(g)		

## Case Summary

On June 10, 2020, § 87(2)(b) submitted this complaint online.

On June 4, 2020, § 87(2)(b) and other unidentified friends of § 87(2)(b) and § 87(2)(b) attended a 2020 police brutality protest in the Bronx. At approximately 5:30 p.m., while § 87(2)(b) and other individuals waited near the intersection of East 148<sup>th</sup> Street and Bergen Avenue in the Bronx for the protest to begin, officers took photographs of them and their car's license plate (**Allegation A: Abuse of Authority**, § 87(2)(g)). § 87(2)(b) and other civilians participated in a peaceful protest in the Mott Haven neighborhood of the Bronx.

At approximately 8:15 PM, at the intersection of East 136<sup>th</sup> Street and Brook Avenue, officers positioned themselves in front of and behind the crowd of protesters and pushed them from both sides with batons and bicycles, causing injuries to those in the crowd. This allegation is the subject of CCRB case 202006855, in which § 87(2)(b) and § 87(2)(b) are listed as victims. Officers standing at the front of the crowd struck protesters with fists and batons. This general allegation is covered by CCRB case 202006855. Police Officer Nicholas Rios struck multiple people with a baton (**Allegation B: Force**, § 87(2)(g)). An officer struck § 87(2)(b) with a baton (**Allegation C: Force**, § 87(2)(g)). Officers deployed pepper spray against the crowd of protesters, affecting § 87(2)(b) and other individuals. These allegations are addressed in CCRB case 202006855. Many of the other officers who responded to the protest were wearing black bands on their shields, concealing their shield numbers (**Allegation D: Abuse of Authority**, § 87(2)(g)), including Police Officer Rios (**Allegation E: Abuse of Authority**, § 87(2)(g)).

Officers put many of the protesters, including § 87(2)(b) and § 87(2)(b) into zip tie handcuffs and detained them for several hours before releasing most of them with summonses. These allegations are addressed under CCRB case 202006855. § 87(2)(b) was placed in handcuffs before § 87(2)(b). When § 87(2)(b) told the nearby officers that they should also arrest him if they were arresting § 87(2)(b), Police Officer Matthew Miret said, "Shut the fuck up," to § 87(2)(b) (**Allegation F: Discourtesy**, § 87(2)(g)). After § 87(2)(b) had been transported to Brooklyn Central Booking to receive his summons, PO Batista asked § 87(2)(b) if he believed in Fidel Castro's political policies and if he believed the police should be defunded (**Allegation G: Abuse of Authority**, § 87(2)(g)). § 87(2)(b) was released with a desk appearance ticket for unlawful assembly.

The CCRB has received body-worn camera video from many of the officers involved in the response to the anti-police brutality protest in the Mott Haven neighborhood of the Bronx associated with multiple investigations. Videos relevant to the case and copied from other cases and videos provided to the investigation by the NYPD are attached to the casefile (Board Reviews 07, 08, 09, 16, 17, 24, 30, 31, and 32; Summaries in Board Reviews 13, 14, 15, 18, 19, 25, 33, and 34) Civilian-provided footage of the protest has also been added to the casefile (Board Review 05, Summaries in Board Reviews 10 and 11).

## Findings and Recommendations

**Allegation (A) Abuse of Authority: At the intersection of East 148<sup>th</sup> Street and Bergen Avenue in the Bronx, officers took photographs of § 87(2)(b) and individuals.**

In his CCRB interview, § 87(2)(b) stated that he, § 87(2)(b) and several of their friends whose

names he declined to provide met up near the starting place for the protest at approximately 5:30 PM (Board Review 12). While they waited in one of the friend's cars, three officers used cell phones to take pictures of § 87(2)(b) his friends, and their car's license plate. § 87(2)(b) and his friends asked the officers what they were doing and told the officers to leave them alone. The officers did not respond. The officers were described as uniformed males with slim or regular builds who were wearing helmets and clear visors. One officer was described as black of Hispanic with a dark skin complexion, and the other officers were described as white of Hispanic with light complexions.

In the statement she provided with her initial CCRB complaint, § 87(2)(b) stated that at the intersection of 148<sup>th</sup> Street and Bergen Avenue in the Bronx, officers used cell phones to photograph her and her car's license plates (Board Review 01). § 87(2)(b) formally withdrew her complaint on June 18, 2020. § 87(2)(b) did not describe the officers.

During his CCRB interview, § 87(2)(b) stated that he had cell phone video depicting the incident. The undersigned investigator made multiple attempts to obtain this footage from § 87(2)(b) via email and called multiple times to follow up. § 87(2)(b) did not provide footage of this incident to the investigation.

A BWC requests for footage captured during this incident returned negative results with the search parameters 40<sup>th</sup> Precinct and 4:30 PM through 6:30 PM (Board Review 28).

The investigation reviewed the 40<sup>th</sup> Precinct Roll Call for the date and time of incident (Board Review 53). The Roll Call does not list any assignments at the reported incident location.

The investigation also reviewed the Patrol Borough Bronx's Detail Roster for the protest (Board Review 54). Although the detail roster lists several assignments within the confines of the 40<sup>th</sup> Precinct, there are no posts at the reported incident location.

In his CCRB interview, PO Miret stated that he was not aware of any investigative actions by police officers immediately before the protest on June 4, 2020 that would have involved police officers photographing civilians or their cars (Board Review 39). PO Miret stated that he did not see any police officers photographing civilians or their cars when he was stationed near the intersection of 148<sup>th</sup> Street and Bergen Avenue in the Bronx.

§ 87(2)(g)

[REDACTED]

**Allegation (B) Force: At the intersection of East 136<sup>th</sup> Street and Brook Avenue in the Bronx, Police Officer Nicholas Rios struck individuals with a baton.**

At East 136<sup>th</sup> Street and Brook Avenue, officers standing at the front of the crowd struck protesters with fists and batons. This general allegation is covered by CCRB case 202006855.

In his CCRB interview, § 87(2)(b) stated that when he was at East 136<sup>th</sup> Street and Brook Avenue,

officers at the front of the crowd of protesters swung their batons at civilians, possibly striking them. § 87(2)(b) stated that one of the officers who he saw strike multiple civilians was holding his baton “like a baseball bat,” swinging the baton outward while holding it at its base with both hands. He described the officer that performed this action as a uniformed white male with a stocky build and a helmet.

An article titled “Woman Shoved to Pavement by Cop During Spring Anti-Racism Protests Battles Pain as She Seeks Justice” by Yoav Gonen and Eileen Grench, published in The City on November 4, 2020, includes a photograph of an officer identified by the investigation as PO Rios holding a baton above his head by its handle in one hand while standing in front of a crowd of protesters (Board Review 46, photograph isolated in Board Review 45).

Cell phone video recovered from Twitter by the CCRB depicts a crowd of at least 30 officers and a crowd of numerous civilians. It is not possible to give an estimate of the number of civilians since the video footage is pointed away from the crowd towards the officers. The officers are not surrounded by the officer, and appear to have cleared the roadway behind them, identified by the investigation as Brook Avenue, with officers at the curb of Brook Avenue facing towards civilians at or near the sidewalk. An officer with a beard, identified as PO Rios, striking at civilians with a baton at the intersection of East 136<sup>th</sup> Street and Brook Avenue (Board Review 40, summary in Board Review 41, original Twitter post in Board Review 48). At 00:04 seconds into the video, PO Rios grabs the right arm of a man wearing a green hat who is covering his head with his arms. At 00:06 seconds, PO Rios strikes the individual with his baton in a downward stabbing motion, hitting either his neck, shoulder, or upper arm. Another civilian in the crowd then pulls the man wearing the green hat backwards into the crowd. At 00:08 seconds into the video, a white male wearing a black shirt grabs the end of PO Rios’ baton for less than one second. PO Rios pulls his baton away from the individual. From 00:16 to 00:21 seconds, PO Rios is depicted deploying four more baton strikes in the direction of the crowd. This video does not depict any civilians throwing any items at officers.

§ 87(2)(b) provided the investigation with cell phone video footage (Board Review 05, labeled as IMG-2899 (1).MOV in the dropdown list, Summary in Board Review 10). The video footage is 11-seconds in length. This footage depicts PO Rios standing at the front of a group of uniformed officers facing a large group of civilians. PO Rios is depicted swinging his baton toward the protesters, holding the baton with two hands at its base. PO Rios deploys five baton strikes over about 10 seconds. The targets of the first two strikes at 00:00 seconds and 00:02 seconds are not depicted. The target of the third strike at 00:06 seconds is a white male who stands about one foot closer to PO Rios than the other civilians with his elbows bent so that both of his hands are up at his chest. The fourth strike is deployed against the crowd in general, all of whom are standing two to three feet from PO Rios and have their hands up at their chests. The fifth strike is deployed against a white male wearing red gloves who reaches out toward PO Rios with both hands. This video does not depict PO Rios being struck by any objects or civilians’ hands. This video does not depict civilians throwing any items at officers.

PO Rios provided a statement to the CCRB (Board Review 44). In his CCRB testimony, PO Rios stated that when he first stood in front of the crowd of protesters at the intersection of 136<sup>th</sup> Street and Brook Avenue, he held his baton horizontally in front of his body and pushed forward with one hand on each end of the baton. § 87(2)(b) in the crowd then grabbed the center of PO Rios’ baton and tried to take it from him. PO Rios did not know how many civilians attempted to take his baton from him. He also reported that people in the crowd struck him with a wooden drumstick and what PO Rios believed to be a tennis ball filled with concrete, and that civilians attempted to take his pepper spray and expandable baton from his belt. PO Rios stated that after he pulled his baton

away from this individual, he began deploying baton strikes toward civilians in the crowd. PO Rios stated that he mostly struck in a downward “slashing” motion at a 45-degree angle, or toward specific people he was targeting. PO Rios could not remember how many baton strikes he attempted. He stated that he aimed for people’s arms and torsos but that he did not know where all of his strikes landed because all of the people in the crowd were constantly in motion. PO Rios stated that he struck civilians near the front of the crowd because they were attempting to remove his police equipment from his body and to strike him with objects. PO Rios deployed baton strikes against individuals who he believed were trying to take his equipment from his belt. PO Rios believed that he struck people in the hands and arms and did not recall striking anyone on the head or face with his baton. PO Rios stated that many people in the crowd shouted profanities at him as he deployed baton strikes. PO Rios could not remember if any civilians stated that they were being pushed from behind.

No AIDED reports were generated in relation to this incident.

No Threat Resistance Injury reports were generated in relation to this incident.

According to Patrol Guide Procedure 221-01, “Force may be used when it is reasonable to ensure the safety of a member of the service or a third person, or otherwise protect life, or when it is reasonable to place a person in custody or to prevent escape from custody. In all circumstances, any application or use of force must be reasonable under the circumstances” (Board Review 49). The procedure goes on to note that “in determining whether the use of force is reasonable, members of the service should consider the following:

- a. The nature and severity of the crime / circumstances
- b. Actions taken by the subject
- c. Duration of the action
- d. Immediacy of the perceived threat or harm to the subject, members of the service, and / or bystanders
- e. Whether the subject is actively resisting custody
- f. Whether the subject is attempting to evade arrest by flight
- g. Number of subjects in comparison to the [members of service]
- h. Size, age, and condition of the subject in comparison to the [member of service]
- i. Subject’s violent history, if known
- j. Presence of hostile crowd or agitators
- k. Subject apparently under the influence of a stimulant / narcotic which would affect pain tolerance or increase the likelihood of violence

The procedure further notes that “when appropriate and consistent with personal safety, members of the service will use de-escalation techniques to safely gain voluntary compliance from a subject to reduce or eliminate the necessity to use force.”

Video footage confirms that at least one civilian made contact with PO Rios’ baton and at least one person reached towards PO Rios at the time that he swung his baton. No civilians were depicted making contact with other pieces of equipment in PO Rios’ possession. The video evidence also showed that PO Rios was at the front of a line of officers at the time he used his baton, and that he advanced towards the civilians when using his baton. While cell phone and social media videos depicting PO Rios show that at least some of the strikes he deployed were against individuals who were grabbing at his baton or reaching out toward him, the footage also shows that PO Rios deployed multiple strikes against individuals whose hands were empty and held either in front of their bodies or protecting their heads.

Patrol Guide Procedure 221-01 notes that force should be used to ensure safety, protect life, or

place someone in custody. § 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

**Allegation (C) Force: At the intersection of East 136<sup>th</sup> Street and Brook Avenue in the Bronx, an officer struck § 87(2)(b) with a baton.**

In his CCRB interview, § 87(2)(b) stated that an officer struck a friend he identified only as § 87(2)(b) in the head with a baton, resulting in an injury that required stitches. § 87(2)(b) declined to provide any contact information or identifying information for § 87(2)(b). The investigation was able to identify § 87(2)(b) as § 87(2)(b) via a Notice of Claim (Board Review 57 and Board Review 58). § 87(2)(b) described § 87(2)(b) as a 5'9" tall white male with a slim build, black hair that he wore tied behind his head, a "scruffy" beard, and possibly a black backpack. § 87(2)(b) stated that he would tell § 87(2)(b) about the investigation and provide him with the undersigned investigator's contact information.

Contact attempts were made to § 87(2)(b) in connection with CCRB 202105251, but to date § 87(2)(b) has not contacted the investigation or provided a statement to the CCRB. In his Notice of Claim, § 87(2)(b) reported that he was on Brook Avenue where officers organized

themselves in a formation known as a kettle and prevented protestors from leaving the area. Three officers climbed on top of a civilian car and struck protestors from above with their batons. A white male officer sprayed § 87(2)(b) and others with pepper spray. An officer described as a “hefty white male with short red hair in a white shirt and helmet with the number 577 on the side” “attacked” § 87(2)(b) in an unspecified manner. An officer – described as a white male dressed in riot gear – “held his baton high above his head and swung it down on § 87(2)(b) s] head at full speed, causing § 87(2)(b) to crumple to the ground. The officer dressed in riot gear repeatedly struck § 87(2)(b) on the head. As a result of the force, § 87(2)(b) sustained the following injuries: a laceration to his head that required four staples, a broken right wrist, and a traumatic injury to his left knee that impeded his ability to walk for three weeks.

The allegation that § 87(2)(b) was pepper sprayed is addressed in CCRB 202100606.

§ 87(2)(b) provided two cell phone videos to the investigation that depict two officers sitting on top of a car and using batons to strike in the direction of a crowd of civilians (Board Review 05, summaries in Board Reviews 10, 11). None of the civilians visible in the crowd match § 87(2)(b) s description of § 87(2)(b) none appears to have been struck in the head, and none appears to be injured. These videos do not depict an officer leaning across the row of bicycle-mounted officers to strike at civilians with a baton.

BWC videos provided to the CCRB in relation to the police response to this protest depict individuals near the front of the crowd of protestors being struck by NYPD officers’ fists and batons. None of these civilians precisely matches § 87(2)(b) s description of § 87(2)(b) No civilians matching § 87(2)(b) s description of § 87(2)(b) are depicted with a bleeding head wound.

In their CCRB interviews, both PO Rios and PO Miret stated that they did not see any officers strike any civilians in the head with a baton. PO Rios and PO Miret both stated that they did not see any civilians with bleeding head injuries.

A request for AIDED reports prepared for civilians in relation to the police response to the protest at the intersection of East 136<sup>th</sup> Street and Brook Avenue in the Bronx returned negative results (Board Review 21).

§ 87(2)(g)

**Allegation (D) Abuse of Authority: At the intersection of East 136<sup>th</sup> Street and Brook Avenue in the Bronx, Police Officer Nicholas Rios refused to provide his shield number to § 87(2)(b)**

**Allegation (E) Abuse of Authority: At the intersection of East 136<sup>th</sup> Street and Brook Avenue in the Bronx, officers refused to provide their shield numbers to § 87(2)(b)**

In her original CCRB complaint narrative, submitted via the CCRB’s website, § 87(2)(b) stated that officers “hid their names and badge numbers” (Board Review 01). No more detail on the allegation was provided in § 87(2)(b) s written statement. § 87(2)(b) did not provide a detailed telephone statement to the investigation.



The photograph of PO Rios included in a The City article titled “Woman Shoved to Pavement by Cop During Spring Anti-Racism Protests Battles Pain as She Seeks Justice” shows PO Rios’ shield number obscured by a black mourning band (Board Review 46, photograph isolated in Board Review 45).

In his CCRB interview, PO Rios stated that he had initially positioned his mourning band in the center of his police shield, directly above his shield number. He stated that he wears his mourning band whenever a police officer is killed during police action, which PO Rios stated occurs almost every day. PO Rios stated that his mourning band tends to fall down and obscure his shield number because it is old, and the elastic is worn out. At the time of the incident, PO Rios had owned his mourning band for approximately two years. When asked if he first noticed that his mourning band was loose and likely to obscure his shield number before or after June 4, 2020, PO Rios stated that he did not know.

According to Patrol Guide procedure 204-17, officers “may wear black elastic mourning band, ½ inch wide, on the shield, covering the seal of the city, but leaving the shield number or rank designation visible, upon the death of a member” (Board Review 47).

§ 87(2)(g)

§ 87(2)(g)

**Allegation (F) Discourtesy: At the intersection of East 136<sup>th</sup> Street and Brook Avenue in the Bronx, Police Officer Matthew Miret spoke discourteously to** § 87(2)(b)

In his CCRB interview, § 87(2)(b) stated that after an officer put § 87(2)(b) into zip tie handcuffs, § 87(2)(b) told the officer that if he was going to arrest § 87(2)(b) he should also arrest § 87(2)(b). A different officer replied, “Shut the fuck up.” A third unnamed officer then put § 87(2)(b) in zip tie handcuffs. § 87(2)(b) described the officer who told him to “shut the fuck up” as being a different officer from his assigned arresting officer. § 87(2)(b) described the officer who said, “Shut the fuck up,” as a 5’8” tall white male officer with a beard and in his mid-30s to early 40s.

Footage provided to the CCRB by TARU depicts § 87(2)(b) and § 87(2)(b) at the time that § 87(2)(b) was detained (Board Review 42, Summary in Board Review 43). At 01:21 minutes into the video, § 87(2)(b) and § 87(2)(b) are depicted standing near the hood of a car. At 01:41 minutes into the video, an officer with helmet number 7813 and a full beard is depicted holding his baton horizontally in two hands, using it to push against a white male with a slim build whose arms are down at his sides and who is turned partially away from the officer. The individual is moving slowly. His eyes appear to be swollen. At 01:46, an officer grabs § 87(2)(b)’s wrist and pulls her away from § 87(2)(b) and out of view of the camera. At 01:50 minutes into the video, § 87(2)(b) says, “If you’re gonna take people, take me.” The officer with helmet number 7813 says, “Shut the—,” and then is drowned out by the noise of the crowd. § 87(2)(b) turns toward him

immediately after he makes this statement. The camera then moves away and the rest of their interaction is not captured.

According to CTS, PO Miret's shield number is 7813.

In his CCRB statement, PO Miret stated that he did not recall if he had told any civilians, "Shut the fuck up," during the incident. In his CCRB interview, PO Miret stated that he did not know if he was the individual depicted in the TARU video speaking to § 87(2)(b). PO Miret stated that he did not remember what his facial hair had looked like at the time of the incident but that he had had a full beard and moustache in the past. During his CCRB interview, PO Miret acknowledged that his shield number was 7813.

In his CCRB interview, PO Batista stated that he was assigned § 87(2)(b)'s arrest but that the arrest was assigned to him after § 87(2)(b) had already been detained and he did not witness § 87(2)(b) being detained (Board Review 37).

§ 87(2)(g)

Patrol Guide Procedure 200-02 directs officers to "render our services with courtesy and civility" (Board Review 54).

§ 87(2)(g)

**Allegation (G) Abuse of Authority: At Queens Central Booking, Police Officer Hugo Batista questioned § 87(2)(b)**

In his CCRB interview, § 87(2)(b) stated that his arresting officer, PO Batista, spoke with him at Queens Central Booking at 125-01 Queens Boulevard while processing his arrest. § 87(2)(b) was wearing a Cuban flag necklace at the time of the incident. § 87(2)(b) stated that PO Batista noticed the necklace and told § 87(2)(b) that his father had studied in Cuba. PO Batista then asked § 87(2)(b) something like, "Do you believe in the Castro regime?" § 87(2)(b) told PO Batista that he did not want to talk about that. PO Batista then asked § 87(2)(b) if he believed that the police should be defunded. After fingerprinting § 87(2)(b), PO Batista took him back to a cell where he remained for two more hours. When PO Batista returned, § 87(2)(b) asked him why he had not been read his Miranda rights. PO Batista stated that he had not questioned § 87(2)(b) so it was not necessary to read him his rights. In his CCRB interview, § 87(2)(b) stated that he believed PO Batista had been directed to question him about his political beliefs during his arrest processing. In his CCRB interview, § 87(2)(b) stated that there were no other civilians or officers nearby when PO Batista asked these questions. § 87(2)(b) reported that he was ultimately issued a summons for unlawful assembly.

In his CCRB interview, PO Batista affirmed that he interacted with § 87(2)(b) and noted that he had an independent recollection of § 87(2)(b). PO Batista reported that after he prepared § 87(2)(b)'s arrest paperwork, he fingerprinted § 87(2)(b). § 87(2)(b) asked PO Batista about his

rights, specifically whether PO Batista was allowed to ask him questions and why PO Batista had not read him his Miranda Rights. PO Batista told him that it was not like television, and that he did not have to read the Miranda rights because he was not being questioned in connection with an investigation. The CCRB interviewer drew PO Batista's attention to an image of § 87(2)(b) depicting § 87(2)(b) wearing a Cuban flag necklace, and asked PO Batista if he had had a conversation about the flag necklace. PO Batista replied, "Actually we did... We ah... We had a conversation... Oh yeah, I mentioned Puerto Rico because I thought it was a Puerto Rican flag. And I was telling him that my family was from Catalina. And that's about it." PO Batista stated that he did not ask § 87(2)(b) anything else about Cuba. He stated that Castro did not come up in their conversation, he denied asking § 87(2)(b) whether the police should be defunded, and stated that he did not ask § 87(2)(b) any questions about his political beliefs. PO Batista stated that he was never instructed to ask arrested protesters about their political beliefs or about any specific issues. PO Batista reported that all of the individuals whose arrests he processed were released with desk appearance tickets.

There is no record of § 87(2)(b)'s arrest or any criminal court proceedings stemming from this incident (Board Review 61).

The investigation located images of the flag of Puerto Rico (Board Review 55) and the flag of Cuba (Board Review 56). The flag of Puerto Rico has alternating red and white horizontal stripes, with three red stripes and two white stripes, and a blue isosceles triangle with a white star inset in the triangle. The flag of Cuba has alternating blue and white horizontal stripes, with three blue stripes and two white stripes, and a red isosceles triangle with a white star inset in the triangle.

In his CCRB interview, Sgt. Lopez Maceda stated that he was not instructed to question detained protesters about their political beliefs and was not aware of any other officers being instructed to question detained civilians about their political beliefs.

It is undisputed that PO Batista and § 87(2)(b) had a conversation arising from § 87(2)(b)'s Cuban flag necklace. PO Batista stated that he mistook the Cuban flag for the flag of Puerto Rico, and that he spoke with § 87(2)(b) about Puerto Rico. Namely, PO Batista said that he told § 87(2)(b) about his Puerto Rican heritage. It is also undisputed that the flag of Cuba and the flag of Puerto Rico have several similar characteristics.

§ 87(2)(g)  
[REDACTED]

### **Civilian and Officer CCRB Histories**

- PO Batista has been a member of service for eight years and has been subject in three other CCRB cases with three allegations, none of which were substantiated.
- PO Miret has been a member of service for four years and has been a subject in four other CCRB cases and 18 allegations, none of which were substantiated.
- PO Rios has been a member of service for seven years and has been a subject in eight other CCRB cases and 39 allegations, seven of which were substantiated.
  - 201507072 involved a substantiated allegation of a frisk against PO Rios. The Board recommended Command Discipline B and the NYPD imposed formalized training.

- 201608922 involved substantiated allegations of two frisks, other abuse of authority, and refusal to provide name or shield number against PO Rios. The Board recommended Command Discipline A and the NYPD imposed Command Discipline A.
- 201706642 involved two substantiated charges of physical force against PO Rios. The Board recommended Charges and the NYPD imposed the loss of ten vacation days.

- § 87(2)(b) [REDACTED]  
[REDACTED]  
[REDACTED]

### **Mediation, Civil and Criminal Histories**

- Complaints arising from the NYPD response to the 2020 police brutality protests were not eligible for mediation.
- § 87(2)(b) s attorney § 87(2)(b) filed a Notice of Claim on § 87(2)(b) s behalf on August 26, 2020 (Board Review 38). The Notice of Claim states that § 87(2)(b) s damages in relation to the incident will be determined by a jury.
- According to the Office of Courts Administration (OCA), § 87(2)(b) has no history of criminal convictions in New York City (Board Review 36).
- According to OCA, § 87(2)(b) has no history of criminal convictions in New York City (Board Review 36).
- There is no record of § 87(2)(b) s arrest or any criminal court proceedings stemming from this incident (Board Review 61).

Squad No.: 12

Investigator: <u>Sylvia Davidovicz</u>	Inv. <u>Sylvia Davidovicz</u>	<u>05/07/2021</u>
Signature	Print Title & Name	Date

Squad Leader: <u>Carlmais Johnson</u>	IM <u>Carlmais Johnson</u>	<u>October 26, 2021</u>
Signature	Print Title & Name	Date

Reviewer: _____	_____	_____
Signature	Print Title & Name	Date